

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

COMMUNITY ASSOCIATION
FOR THE RESTORATION OF
THE ENVIRONMENT, a
Washington nonprofit corporation,

Plaintiff,

v.

NELSON FARIA DAIRY, INC.,

Defendant.

No. CV-04-3060-LRS

**ORDER DENYING MOTION
TO ALTER OR AMEND
JUDGMENT ON ORDER ON
FEES, *INTER ALIA***

BEFORE THE COURT is the Plaintiff's Motion To Alter Or Amend Judgment On Order On Fees (ECF No. 293), and Defendant's Motion To Stay And Approve Bond (ECF No. 307). These motions are heard without oral argument.

The Plaintiff was awarded all of its fees and expenses related to its Motion In Limine To Limit Use Of All Untimely Provided Documents (ECF No. 188). The court reserved ruling on that motion pending trial and, as Plaintiff notes, the court made rulings during trial excluding some of the Defendant's evidence as being untimely. Accordingly, the court cannot justify awarding additional fees with regard to Plaintiff's earlier filed Motion To Compel And Motion To Extend. Plaintiff's Motion To Alter Or Amend

**ORDER DENYING MOTION TO
ALTER OR AMEND JUDGMENT- 1**

1 Judgment On Order On Fees (ECF No. 293) is **DENIED**.

2 With denial of this motion, it is anticipated the Defendant will now file a
3 Notice of Appeal with regard to the Judgment entered on the “Order Re CARE’s
4 Application For Attorney And Expert Witness Fees And Costs” (ECF Nos. 290
5 and 291). Defendant has filed a Motion To Stay execution of that Judgment
6 pending appeal upon approval of it posting a supersedeas bond in the sum of
7 \$750,000. Fed. R. Civ. P. 62(d). A district court should attempt to achieve full
8 satisfaction of a judgment in setting a supersedeas bond. *Brooktree Corp. v.*
9 *Advanced Micro Devices, Inc.*, 757 F.Supp. 1101 (S.D. Cal. 1990). The court,
10 however, has inherent discretionary authority in setting the amount of a
11 supersedeas bond. *Id.* at 1104. Here, the Judgment for fees and costs is
12 \$672,178.07. Defendant proposes a \$750,000 bond, presumably recognizing
13 that post-judgment interest will continue to accrue while the Judgment is on
14 appeal. The court concludes a higher amount is warranted because post-
15 judgment proceedings are ongoing in this court . Plaintiff has incurred and will
16 continue to incur fees and costs related to those proceedings, in addition to the
17 fees and costs it will incur on appeal before the Ninth Circuit.

18 Accordingly, along with the Notice of Appeal it intends to file, Defendant
19 will post a supersedeas bond in the sum of \$825,000.00. Upon posting of the
20 bond, execution on the Judgment re fees and costs will be stayed pending appeal
21 of that Judgment. Defendant’s Motion To Stay And Approve Bond (ECF No.
22 307) is **GRANTED** to the extent set forth herein.

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28 **ORDER DENYING MOTION TO
ALTER OR AMEND JUDGMENT- 2**

1 **IT IS SO ORDERED.** The District Court Executive is directed to enter
2 this order and provide copies of the same to counsel of record.

3 **DATED** this 16th day of May, 2012.

4 *s/Lonny R. Suko*

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6 LONNY R. SUKO
7 United States District Judge
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**ORDER DENYING MOTION TO
ALTER OR AMEND JUDGMENT- 3**